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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/030,595	01/08/2002	Robert W. Tritchler	GRC 19.329 (100671-00050)	6456
26304	7590	05/03/2005	EXAMINER	
KATTEN MUCHIN ZAVIS ROSENMAN 575 MADISON AVENUE NEW YORK, NY 10022-2585			DUNWOODY, AARON M	
			ART UNIT	PAPER NUMBER
			3679	
DATE MAILED: 05/03/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/030,595

Applicant(s)

TRITCHLER ET AL.

Examiner

Aaron M Dunwoody

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9, 12, 14-18 and 21-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 12, 14-18 and 21-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 24 and 25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The new matter is the collar being slidably rotatable about the first member and engaging the second member to positionally adjust the second member in relation to the first member without positionally adjusting the first member in relation to the collar and without positionally adjusting the first member in relation to the second member. The original disclosure of instant application only states, "the first and second elements are held together in face-to-face relatively rotatable relationship by means of a collar."

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6-9 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by US patent 904673, Bideker.

In regards to claim 1, Bideker discloses a swivel joint for connecting to a water line in a plumbing accessory outlet, the joint comprising:

a first member (B) having an externally milled barrel and a second member (A) having an internally milled barrel,

wherein the second member accommodates the first member in a relatively rotatable relationship and wherein the relationship is leak-proof,

wherein the first and second members are held together by a cylindrically shaped housing (C) that is rotatably engaged with one member and receives the milled barrel of the other member within the housing and is adjustably engaged with the other member whereby adjustment of the housing enables the tightening of the swivel joint.

In regards to claim 2, Bideker discloses a recess being formed in the externally milled barrel of the first member which accommodates an o-ring (d).

In regards to claim 3, Bideker discloses the barrel of the first member being tapered to facilitate assembly with the second member which has a complementary taper.

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In regards to claim 4, Bideker discloses the second member being adapted for connecting to a water line and the first member being adapted for connecting to an attachment.

In regards to claim 6, Bideker discloses the attachment being a shower head.

In regards to claim 7, Bideker discloses the first member being integrally formed on an attachment.

In regards to claim 8, Bideker discloses the attachment being a shower heat

In regards to claim 9, Bideker discloses the second member being integrally formed on the water line.

In regards to claim 12, Bideker discloses the housing including an internal screw thread to on side of the wall which is designed to mate with an externally thread stem on an end on an end of the first member extending through the opening.

Claims 14-18 and 21-23 are rejected under 35 U.S.C. 102(b) as being anticipated by US patent 4927188, Sands.

In regards to claims 14 and 22, Bedeker discloses a swivel joint for connecting to a water line in a plumbing accessory outlet, the joint comprising:

a first element (14) having a barrel with an externally projecting milled face, and

a second element (10) having a barrel with an externally projected milled face,

wherein a resiliently deformable sealing member (52) is accommodated in one of the faces, and the first and second elements are held together in face-to-face leak-proof

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yet relatively rotatable relationship in an operative condition by means of a cylindrically shaped housing;

wherein a thrust washer (48) is disposed between the cylindrical shaped housing and one of the elements, and

wherein the cylindrically shaped housing is rotatably engaged with one member and receives the milled barrel of the outer member within the housing and is adjustably engage with the other member whereby adjustment of the collar enables the tightening of the swivel joint.

In regards to claim 15, Bedeker discloses the resiliently deformable sealing member being an o-ring.

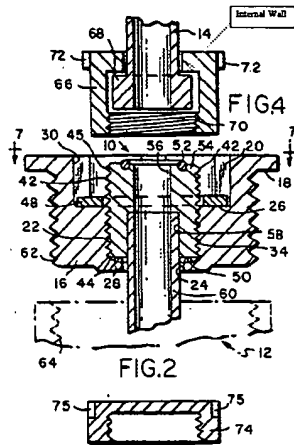
In regards to claim 16, Bedeker discloses the o-ring being located in a recess formed in the face of the second element.

In regards to claim 17, Bedeker discloses the second element being adapted (capable) for connecting to a water line and the first element being adapted for connecting to an attachment

In regards to claim 18, Bedeker discloses the attachment being a shower head.

In regards to claim 21, Bedeker discloses the housing including an internal wall (see Figure 2 below), offset from one end of the housing, with an opening therethrough.

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In regards to claim 23, Bedeker discloses a washer disposed between the housing and the one member.

### ***Response to Arguments***

Applicant's arguments filed 1/12/2005 have been fully considered but they are not persuasive. The Applicant argues:

Directing the water at right angles will cause the nozzle to rotate uncontrollably unless the joint is maintained in a tight and non-rotatable configuration whilst water flows through the joint. Thus, the applicants believe it is clear that Bedecker does not describe the joint of the present invention. Bedecker would be unusable if it was able to rotate.

Of particular evidence is that Bedecker has a nut (D) adapted to be tightened with a wrench or other implement providing a mechanical advantage. This combined with the much steeper taper of the joint makes it clear to one skilled in the art that this joint is either leak-proof or rotatable, but clearly not both.

The Examiner disagrees. Bedecker '673 recites:

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With this improved tip the hose with its nozzle may be placed on any convenient surface and a stream of water thrown at any angle through the 180 degrees with very little effort on the part of the attendant... The union C holds the tip and its seat in operative relation and permits the rotation of the tip B in the seat A... A packing ring *d* is embedded in the surface of the beveled portion of the tip to make a water tight [leak-proof] joint between the tip and the seat.

Therefore, Bideker '673 meets the claim limitations.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a leak proof fitting to accommodate rotation in use) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In regards to the Applicant's argument that the lock washer of Sands does not thrust against anything, while anticipation requires the disclosure of each and every limitation of the claim at issue in a single prior art reference, it does not require such disclosure *in haec verba*. *In re Bode*, 550 F.2d 656, 660, 193 USPQ 12, 16 (CCPA 1977). In addition, it does not require that the prior art reference "teach" what the application at issue teaches. *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 218 USPQ 781 (Fed. Cir. 1983). Finally, Applicant is reminded that during examination claim limitations are to be given their broadest reasonable reading. *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989).



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Further, it is obvious that the washer 48 would axially stop the thrust of the member 66.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron M Dunwoody whose telephone number is 571-272-7080. The examiner can normally be reached on 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P Stodola can be reached on 571-272-7087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Aaron M Dunwoody  
Primary Examiner  
Art Unit 3679

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